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THE WHEELING AND LAKE ERIE RAILROAD COMPANY

Plan and Agreement of Reorganization

DATED SEPTEMBER 20, 1916

KUHN, LOEB & CO.
BLAIR & CO.
Reorganization Managers

BYRNE, CUTCHEON & TAYLOR
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Depositary

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THE WHEELING AND LAKE ERIE RAILROAD COMPANY

Plan and Agreement of Reorganization

INTRODUCTORY STATEMENT.

(Not part of Plan or Agreement.)

The decree of foreclosure and sale of the properties of The Wheeling and Lake Erie Railroad Company (hereinafter called the "Old Company") entered April 1, 1914, was affirmed May 12, 1916, by the Circuit Court of Appeals for the Sixth Circuit.

By the decree it was adjudged that the Three-Year Five Per Cent. Gold Notes (hereinafter called "Three-Year Notes") due August 1, 1908, of the Old Company were valid, that the pledge of $12,000,000 of General Mortgage Bonds of the Old Company to secure the notes was valid to the extent of the amount due upon the notes for principal and interest and that the General Mortgage constituted a valid lien upon the property of the Old Company. The amount due upon the notes on the date of the decree was $10,523,333.33 and the interest at 5% to November 1, 1916, amounts to the further sum of $1,359,263.89, making the total amount due on November 1, 1916, $11,882,597.22. Notice of the sale of the properties on October 30, 1916, is now being published.

The annexed Plan has been formulated with the purpose of giving to the shareholders of the Old Company every opportunity of continuing their interest in the property, if they desire to do so. In order to render this as little burdensome as possible, by reducing the amount of cash to be contributed by the shareholders to the lowest figure practicable, the holders of the Three-Year Notes (who have been forced by the protracted litigation to retain their investment in the notes for the past eight years and besides to make further large advances to improve, maintain and protect the property) have consented to accept Prior Lien Stock at par for the amount due on the notes as established by the decree and interest to November 1, 1916. The cash requirements of the Plan are thus reduced to $9,984,708, which it is proposed to raise by the assessment of the shareholders of the Old Company, giving them 6% Preferred Stock for the amount of the assessment and,

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upon payment of such assessment, Common Stock of the New Company in respect of their present holdings in the Old Company.

None of the three classes of stock of the Old Company is by its charter given any preference over the other classes in assets and, therefore, the three classes are by the Plan treated in substantially the same manner, the only difference in treatment being that in recognition of their relative positions as to dividends, the First Preferred Stock is given slightly more than the Second Preferred Stock and the Second Preferred Stock slightly more than the Common Stock, in Common Stock of the New Company, thus in effect reducing the cost of the Common Stock of the New Company in the order of the priority of the three classes as to dividends.

Moreover, in order that each shareholder of the Old Company may retain his full *pro rata* interest in the property, it is provided that shareholders of the Old Company who pay the assessment shall have the right to purchase *pro rata* amounts of the Prior Lien Stock at the same price as that at which it is taken by the holders of the Notes.

The Consolidated Mortgage of the Old Company is closed and no additional bonds can be issued under that mortgage, except for refunding the $3,303,000 underlying bonds. In order to provide for the future requirements of the New Company, it is proposed to create a new Refunding Mortgage, which is to rank on a parity with the present Consolidated Mortgage to the extent that holders of bonds issued under the latter mortgage may consent thereto. In order to compensate such holders for the enlargement of their mortgage, it is proposed that those assenting receive, dollar for dollar of face value, 4½% bonds, issued under the new Refunding Mortgage, in exchange for their holdings of 4% bonds, issued under the Consolidated Mortgage, provided the holders of an amount of the latter bonds, sufficient in the opinion of the Managers to justify the exchange, assent to the Plan. In addition to its lien on the property covered by the Consolidated Mortgage, it is intended that the new Refunding Mortgage shall, without the issue of any bonds in respect thereof, be a lien upon additional property which has been acquired at a cost as reported by the Receiver of more than $5,000,000.

Holders of unsecured claims against the Old Company are to receive in payment of their claims $50 of Preferred Stock, and $50 of Common Stock of the New Company for each $100 of such claims, as of November 1, 1916.

Notwithstanding that as reported by the Receiver more than $5,000,000 has been spent on the property during the receivership, in addition to $2,019,000 raised by the sale of Receiver's Equipment Certificates, the New Company will have outstanding upon the completion of the reorganization, aside from the Receiver's Equipment Certificates and an issue of $190,000 of other Receiver's Certificates, bonds of only the same amount, namely, $15,000,000, as were outstanding in 1905 prior to the issue of the Three-Year Notes. All

other securities (except the Equipment Sinking Fund Five Per Cent. Bonds, for which no specific provision is made) and the cash furnished the property since 1905 are provided for by the issue of junior securities entailing no fixed interest charge. The fixed interest-bearing obligations, including Receiver's Certificates, will thus be reduced approximately $17,950,000 and the annual fixed interest charges will be reduced from approximately $1,745,000 to not more than approximately $835,000, and possibly less than that figure.

The net income for the year ended June 30, 1916, after deducting taxes, rentals and hire of equipment was, as reported by the Receiver, $2,436,012. Included in the operating charges for the year is an item of $379,388.67 covering the residual value of cars retired from service in previous years but not dismantled or disposed of until during the last year, which item should therefore be considered as in reality a charge against the earnings of previous years.

Every effort has been made to formulate a Plan which is fair and equitable to all concerned, and which places the property in a strong position. It is to be hoped that it may be promptly consummated and the property restored to the holders of its securities and the lengthy receivership terminated.

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Plan

I.

PRESENT CAPITALIZATION.

Underlying Bonds:		
Lake Erie Division First Mortgage Five Per Cent. Gold Bonds, October, 1926 (hereinafter called "Lake Erie Division Bonds"), principal	$2,000,000.00	
Wheeling Division First Mortgage Five Per Cent. Gold Bonds, July, 1928 (hereinafter called "Wheeling Division Bonds"), principal	894,000.00	
Extensions and Improvement Mortgage Five Per Cent. Gold Bonds, February, 1930 (hereinafter called "Extensions and Improvement Bonds"), principal	409,000.00	
First Consolidated Mortgage Four Per Cent. Gold Bonds, September, 1949 (hereinafter called "First Consolidated 4% Bonds"), principal	11,697,000.00	$15,000,000.00
Equipment Obligations:		
Receiver's Equipment Certificates maturing 1917 to 1923, principal	$1,312,000.00	
Equipment Sinking Fund Five Per Cent. Gold Bonds, principal	1,298,000.00	2,610,000.00
Demand Notes:		
Secured by pledge of bonds of Adena Railroad Co. and mortgages on real estate in Cleveland, principal		755,000.00
Obligations fixed by decree of foreclosure:		
Three-Year Five Per Cent. Gold Notes (hereinafter called Three-Year Notes):		
Amount due April 1, 1914, the date of the decree	$10,523,333.33	
Interest to November 1, 1916	1,359,263.89	11,882,597.22
Receiver's Certificates, principal		6,859,850.00
Receiver's Mortgage, principal		3,609.00

Capital Stock:		
First Preferred	$4,986,900.00	
Second Preferred	11,993,500.00	
Common	20,000,000.00	36,980,400.00
Total fixed capitalization		$74,091,456.22
In addition to the fixed capitalization there are unsecured claims aggregating, with interest, approximately		720,500.00
Annual interest charges (including interest on receiver's certificates, but excluding interest on unsecured claims) approximately		1,744,950.00

II.

CASH REQUIREMENTS.

The amount of cash estimated to be required to carry out the Plan is approximately		$9,984,708.00
To be applied by the Managers or in their discretion, as to any part, turned over to the New Company to be applied by it to the following and such further or substitute purposes and uses as may be determined by the Managers or the New Company:		
To pay Receiver's Certificates (exclusive of $190,000 thereof maturing 1926) and Receiver's mortgage, principal	$6,673,459.00	
To pay demand notes secured by bonds of Adena Railroad Co. and real estate in Cleveland, principal	755,000.00	
To pay other claims against and liabilities of the Receiver, to provide working capital for the New Company and to pay interest, expenses of foreclosure and sale and of reorganization (including compensation and allowances, counsel fees, court costs, services of engineering, accounting and other experts, etc.) and other incorporation and reorganization disbursements and miscellaneous requirements	2,556,249.00	$9,984,708.00

III.

PROVISION FOR CASH REQUIREMENTS.

The cash required as aforesaid for the purposes of the Plan is to be raised by the payment as hereinafter provided by the stockholders of the Old Company of $27 for each share of stock, whether first preferred, second preferred or common, of the Old Com-

pany held by them respectively, which payments, so far as not made by the stockholders of the Old Company, are to be made by the Syndicate to be formed by the Managers as bankers as hereinafter stated.

IV.

SECURITIES TO REMAIN UNDISTURBED IN THE REORGANIZATION.

The following underlying bonds and equipment obligations will remain undisturbed in the reorganization:

Lake Erie Division Bonds	$2,000,000
Wheeling Division Bonds	894,000
Extensions and Improvement Bonds	409,000
Receiver's Equipment Certificates maturing 1917 to 1923	1,312,000
Receiver's Certificates maturing 1926	190,000
Total	$4,805,000

plus the amount of First Consolidated 4% Bonds whose holders shall not become parties to the Plan and accept 4½% bonds of the New Company in exchange for their First Consolidated 4% Bonds as permitted by the Plan and plus also the Equipment Sinking Fund Five Per Cent. Gold Bonds (principal amount outstanding $1,298,000) if and to the extent that they shall be left undisturbed in the discretion of the Managers as provided in the Plan.

V.

NEW COMPANY.

The Reorganization will be effected through the agency of a new corporation (herein called the "New Company") to be organized under the laws of Ohio or of some other State with such corporate name as the Managers may determine. It will (provided the Managers shall be able to purchase or arrange for the purchase of the same at a price which in their uncontrolled discretion they shall deem proper) be vested with title to all the railroads, franchises, rights and other property owned by The Wheeling and Lake Erie Railroad Company (herein called the "Old Company"), with such exceptions and additions, however, as the Managers shall in their absolute discretion determine to be advisable. It will authorize and issue the new securities provided for in the Plan.

VI.

NEW SECURITIES.

The new securities to be authorized and issued by the New Company are:

1.—*Refunding Mortgage Gold Bonds, authorized issue* $50,000,000
to be secured by a mortgage which it is intended shall be a direct lien upon all the railroads, franchises, rights and other property ac-

quired by the New Company in the reorganization (which will include not only all the property covered by the mortgage securing the First Consolidated 4% Bonds, but also additional property) and upon all extensions, additions and improvements thereof and thereto and all other properties thereafter constructed or acquired by the New Company with such bonds or the proceeds thereof. There will also be pledged under the mortgage, free from any prior lien, all First Consolidated 4% Bonds that become subject to the Plan, and all such bonds that shall, after the completion of the reorganization, be acquired by the New Company. The mortgage of the New Company will provide that when all of the First Consolidated 4% Bonds shall have been pledged thereunder the mortgage securing the First Consolidated 4% Bonds shall be satisfied and discharged.

For the purposes of the Plan there will be presently issued, in exchange for such First Consolidated 4% Bonds as become subject to the Plan, Refunding Mortgage Gold Bonds to be dated September 1, 1916, to be payable September 1, 1966, to bear interest at the rate of 4½% per annum, payable March 1 and September 1 in each year and to be redeemable on any interest payment date at 102½% of the principal amount thereof and accrued interest after published notice, not exceeding in principal amount $11,697,000

any of said bonds not so issued to be reserved to be issued by the New Company as hereinafter stated.

The Refunding Mortgage Gold Bonds, except such amount thereof as shall be issued for the purposes of the Plan in exchange for First Consolidated 4% Bonds as aforesaid, are to be payable September 1, 1966, to bear interest at a rate or rates not in any instance exceeding 6% per annum, and to be redeemable on any interest payment date—the rates of interest, semi-annual interest payment dates and redemption prices to be fixed by the Board of Directors of the New Company from time to time as bonds shall be issued. Of such bonds there shall be:

Reserved to be issued under restrictions to be stated in the mortgage to pay, refund or otherwise acquire the Lake Erie Division Bonds, the Wheeling Division Bonds and the Extensions and Improvement Bonds..... 3,303,000

and in addition an amount thereof equal to the amount of First Consolidated 4% Bonds, whose holders shall not become parties to the Plan, to pay, refund or otherwise acquire such First Consolidated 4% Bonds, any thereof not issued for the purposes aforesaid to be added to the amount thereof reserved to be issued as below mentioned.

Reserved to be issued under restrictions to be stated in the mortgage for and against additions, betterments and extensions to and of the properties owned by the New Com-

pany and covered by the mortgage and the acquisition of new property from time to time and to aid in refunding the above-mentioned bonds and to pay, refund or otherwise acquire Equipment Obligations of the Receiver or of the Old Company	35,000,000	$50,000,000

2.—*Prior Lien Stock*..... $11,882,600

all whereof shall be presently issued for the purposes of the Plan.

The prior lien stock shall be entitled to cumulative dividends from November 1, 1916, at the rate of, but not exceeding, 7% per annum, payable quarterly, shall be entitled to priority over the preferred stock and the common stock both as to dividends and in liquidation, and, so far as legally practicable, shall be redeemable on any dividend payment date on or after November 1, 1919, at $115 per share and accrued and unpaid dividends and shall be convertible at any time after November 1, 1919, into common stock of the New Company at the rate of dollar for dollar of par value with an adjustment of dividends. The holders of the prior lien stock shall have the right (to be reserved in the charter or articles of incorporation of the New Company) to elect for a period of five years after the incorporation of the New Company a majority of the directors of the New Company to be elected at any meeting of the stockholders and also to elect a majority of the directors to be elected at any such meeting thereafter, whenever and as often as the New Company shall have failed to pay the full dividend on the prior lien stock for five consecutive years ended on the quarterly dividend date next preceding such meeting; otherwise the prior lien stock, the preferred stock and the common stock shall have proportionately equal voting rights for all purposes.

3.—*Preferred Stock*—

whereof there shall be presently issued for the purposes of the Plan... $10,344,958

and authorized to be issued, upon the redemption of the prior lien stock, as aforesaid, but not otherwise, an additional amount thereof on account of the prior lien stock so redeemed.

The preferred stock shall be entitled to non-cumulative dividends from November 1, 1916, at the rate of 6% per annum, shall be preferred over the common stock both as to dividends and in liquidation, and, so far as legally practicable, shall be redeemable on any dividend date on or after November 1, 1919, at $105 per share and the dividends declared and unpaid thereon for the then current year, and shall be convertible at any time after November 1, 1919, into common stock at the rate of dollar for dollar of par value with an adjustment of dividends.

4.—*Common Stock*—

whereof there shall be presently issued for the purposes of the Plan... $33,641,300

and authorized to be issued an amount thereof sufficient for the conversion of the prior lien stock and the preferred stock as aforesaid.

If for any reason it shall be impracticable to issue the full amounts of stock above mentioned, the necessary reduction will be effected by diminishing the amount of common stock to be issued, and in such event the amount of such common stock deliverable to the depositors of stock of and unsecured claims against the Old Company pursuant to the Plan will be reduced in proportion to the reduction in the amount of such common stock to be issued.

VII.

DISTRIBUTION OF NEW SECURITIES.

Refunding Mortgage Gold Bonds:

To holders of First Consolidated 4% Bonds of the Old Company upon the surrender of their bonds with the March 1, 1917, and all subsequent coupons thereto annexed, $1,000 principal amount of Refunding Mortgage Gold Bonds, 4½%, of the New Company for each $1,000 of said First Consolidated 4% Bonds, not to exceed $11,697,000

Prior Lien Stock:

To holders of Three-Year Notes of the Old Company upon the surrender of their notes with the August 1, 1908, coupons thereto annexed, in payment of the amount due thereon as per the decree of foreclosure and sale and interest to November 1, 1916..... 11,882,600

Preferred Stock:

To holders of the first preferred stock of the Old Company upon payment of $27 for each share of such first preferred stock held by them and the surrender of their stock, preferred stock of the New Company equal at par to such payment..... 1,346,463

To holders of the second preferred stock of the Old Company upon payment of $27 for each share of such second preferred stock held by them and the surrender of their stock, preferred stock of the New Company equal at par to such payment..... 3,238,245

To holders of common stock of the Old Company, upon payment of $27 for each share of such common stock held by them and the surrender of their stock, preferred stock of the New Company equal at par to such payment 5,400,000

To holders of unsecured claims against the Old Company, $50 of preferred stock of the New Company for each $100 of their claims as of November 1, 1916, estimated 360,250

Common Stock:

To holders of first preferred stock of the Old Company upon making payment and surrendering their stock as aforesaid, $100 of common stock of the New Company for each $100 of such first preferred stock held by them 4,986,900

To holders of second preferred stock of the Old Company upon making payment and surrendering their stock as aforesaid, $90 of common stock of the New Company for each $100 of such second preferred stock held by them 10,794,150

To holders of common stock of the Old Company upon making payment and surrendering their stock as aforesaid, $87.50 of common stock of the New Company for each $100 of such common stock held by them..... 17,500,000

To holders of unsecured claims against the Old Company, $50 of common stock of the New Company for each $100 of their claims as of November 1, 1916, estimated 360,250

Stock scrip will be issued for fractional shares deliverable under the Plan as aforesaid.

The manner in which it is intended the new securities shall be distributed is substantially as shown in the following table:

	EXISTING SECURITIES	NEW SECURITIES							
		Refunding Mortgage Gold Bonds, 4½%		Prior Lien Stock		Preferred Stock		Common Stock	
Name and Amount of Payments Required	Amount	Per Cent	Amount	Per Cent	Amount	Per Cent	Amount	Per Cent	Amount
First Consolidated 4% Bonds	$11,697,000	100	$11,697,000						
Three-Year Notes	11,882,600			100	$11,882,600				
First Preferred Stock on payment of $27 per share	4,986,900					27	$1,346,463	100	$4,986,900
Second Preferred Stock on payment of $27 per share	11,993,500					27	3,238,245	90	10,794,150
Common Stock on payment of $27 per share	20,000,000					27	5,400,000	87½	17,500,000
Unsecured Claims, estimated	720,500					50	360,250	50	360,250
	$61,280,500		$11,697,000		$11,882,600		$10,344,958		$33,641,300

Any cash or securities not required to be used for the purposes of the Plan will be paid over and delivered to the New Company.

VIII.

EQUIPMENT SINKING FUND FIVE PER CENT. GOLD BONDS.

No specific provision has been made in the Plan for the Equipment Sinking Fund Five Per Cent. Gold Bonds of the Old Company, but the Managers shall have full power and authority to deal with said bonds and to adjust the claims of the owners thereof either by the payment of cash, or, with or without any cash payment, by leaving said bonds or any part thereof undisturbed in the reorganization or by the issue of new equipment obligations secured by the equipment title whereto is reserved to secure the payment of said bonds or by the issue of other obligations or by surrendering such equipment, as the Managers in their absolute discretion may deem advisable; and for such purpose the Managers may use any part of the cash provided for the cash requirements of the Plan as aforesaid.

IX.

TERMS AND CONDITIONS OF PAYMENT BY DEPOSITORS OF STOCK.

When the Plan shall have been declared operative, the Managers will give to depositors of stock of the Old Company notice of the date on or before which the payments required of them on account of the cash requirements of the Plan must be made. Such notice shall be given by publication thereof once a week for two successive weeks in The New York Times and The Sun, newspapers regularly published and issued in the Borough of Manhattan, City of New York, the first publication of such notice to be not less than fifteen days nor more than twenty days prior to the date on or before which such payment is required to be made. Such payments will be receipted for by the Depositary by endorsement on the certificates of deposit representing the stock in respect whereof payments are made.

Any depositor of such stock who shall make default in any payment required of him as aforesaid shall, unless the Managers shall otherwise determine in any particular instance or instances, forfeit any sums theretofore paid by him and his right to any shares of stock of the New Company and any and every other right and benefit to which he would otherwise be entitled under the Plan all whereof, except the right to subscribe for and purchase prior lien stock as hereinafter provided, will pass to and vest in the Syndicate.

X.

RIGHTS OF ASSENTING STOCKHOLDERS TO SUBSCRIBE FOR PRIOR LIEN STOCK.

Depositors of stock of the Old Company, upon payment in full of the sums required to be paid by them as aforesaid on account of the cash requirements of the Plan, shall have the right, to be exercised at the time of such payment in full, to subscribe for and purchase at par and accrued dividends $32.13 par value of the prior lien stock of the New Company for each share of stock of the Old Company represented by their certificates of deposit respectively. Depositors of stock who elect to subscribe for and purchase such prior lien stock at the price aforesaid must, upon making payment of the balance of the sums required to be paid by them on account of such cash requirements, as aforesaid, also pay $10 for each share of such prior lien stock subscribed for by them, surrender their original certificates of deposit and receive in lieu thereof new certificates evidencing such payments and their right to receive, in addition to the other benefits to which they may be entitled under the Plan, $32.13 par value of the prior lien stock of the New Company for each share of stock represented by the surrendered certificates of deposit, upon making payment of the balance of the purchase price thereof, when and as called for by the Managers. The Managers will give notice of the date on or before which depositors who have subscribed for such prior lien stock must make payment of the balance of their subscriptions therefor by publication thereof once a week for two successive weeks in The New York Times and in The Sun, newspapers regularly published and issued in the Borough of Manhattan, City of New York, the first publication

of which notice shall be not less than fifteen days nor more than twenty days prior to the date on or before which such payments are required to be made. Any depositor who shall fail to make such payment of such balance on or before the date mentioned in such notice shall forfeit all payments theretofore made by him on his subscription for such prior lien stock and also his right to receive the prior lien stock subscribed for by him (but no other right or benefit under the Plan), unless the Managers shall, in their absolute discretion, extend the time for such payment, upon such terms and conditions as they may in any particular instance or instances fix.

Any cash received on account of subscriptions for the prior lien stock as aforesaid will be paid over and distributed to and among the depositors of the Three-Year Notes in proportion to their respective interests and the amount of prior lien stock delivered to subscribers therefor as aforesaid will be deducted proportionately from the amount thereof deliverable to such depositors of such notes as aforesaid.

XI.

NON-ASSENTING SECURITY HOLDERS.

Stockholders, who do not assent to the Plan and make in full the payments required of them, and holders of unsecured claims, who do not assent to the Plan, will not be entitled to participate in the Plan or the benefits thereof to any extent whatsoever and will receive only their respective *pro rata* shares of any balance of the proceeds of the foreclosure sale of the properties of the Old Company which may remain after the discharge of the obligations and liabilities entitled to prior payment under the terms of the foreclosure decree and orders of court.

XII.

CAPITALIZATION AND FIXED CHARGES

Before and presently after Reorganization.

Capitalization:

Total capitalization (including receiver's certificates and unsecured claims) prior to reorganization (see pages 1 and 2)		$74,811,956.22
Total capitalization presently after reorganization:		
Bonds	$15,000,000.00	
Receiver's Equipment Obligations	1,312,000.00	
Receiver's Certificates maturing 1926	190,000.00	
Prior Lien Stock	11,882,600.00	
Preferred Stock	10,344,958.00	
Common Stock	33,641,300.00	72,370,858.00
Decrease in Reorganization		$2,441,098.22

Fixed Charges:

Total annual interest charges (including interest on receiver's certificates, but excluding interest on unsecured claims) prior to reorganization (see page 2), approximately	$1,744,950.00
Total annual interest charges presently after reorganization (excluding interest on the Equipment Sinking Fund Five Per Cent. Gold Bonds amounting to $64,900 per annum) assuming that all First Consolidated 4% Bonds are exchanged for new bonds; otherwise less than	768,515.00
Decrease in Reorganization, approximately	$976,435.00

The amount of the capitalization presently after reorganization, as above stated, will be increased and the amount of the decrease of capitalization in reorganization, as above stated, will be diminished by the amount of the Equipment Sinking Fund Five Per Cent. Gold Bonds, if any, left undisturbed in the reorganization and by the amount of new securities, if any, which shall be issued in the discretion of the Managers on account of or in exchange or substitution for any of such bonds, and the amount of the annual interest charges presently after reorganization, as above stated, will be increased and the amount of the decrease of annual interest charges in reorganization, as above stated, will be diminished by the amount of the interest charges on the Equipment Sinking Fund Five Per Cent. Gold Bonds, if any, left undisturbed and of the interest charges on the new securities so issued in exchange or substitution for any of such bonds.

The reorganization will effect a reduction in fixed interest-bearing obligations (including Receiver's Certificates) of approximately $17,950,000 and will, in addition, supply the New Company with new money for its corporate purposes.

XIII.

REORGANIZATION MANAGERS. DEPOSITARY.

The holders of the Three-Year Notes have adopted the Plan. Messrs. Kuhn, Loeb & Co. and Blair & Co. have approved the Plan and have agreed to act as Reorganization Managers (herein called "Managers") thereunder. The Managers will act as firms and any successors to said firms shall be the Managers.

A syndicate (herein called the "Syndicate") has been formed by the Managers as bankers, to underwrite the cash requirements of the Plan as stated therein. The Managers are the managers of the Syndicate.

Central Trust Company of New York has been appointed Depositary under the Plan. It shall upon the request of the Managers appoint such agents as the Managers deem advisable.

Compensation for their services will be paid as expenses of the Reorganization to the Depositary and to the Syndicate and to the Managers for their services as Reorganization Managers and as Syndicate Managers.

XIV.

METHOD AND TERMS OF PARTICIPATION.

The holders of the Three-Year Notes having adopted the Plan and having deposited their notes with the Managers thereunder, all the holders of such notes shall be irrevocably bound and concluded by the Plan and Agreement of Reorganization without the issue of any certificates of deposit therefor.

Holders of First Consolidated 4% Bonds of the Old Company desiring to participate in the Plan must deposit their bonds with all coupons maturing on and after March 1, 1917, in form transferable by delivery, with the Depositary on or before October 25, 1916, receiving therefor certificates of deposit in form to be approved by the Managers, and the holders of such certificates of deposit shall be irrevocably bound and concluded by the Plan and Agreement of Reorganization.

Any interest payable in respect of deposited First Consolidated 4% Bonds, if and when received by the Managers, will be paid over, with a proper adjustment, to the holders of certificates of deposit representing such bonds.

Stockholders of the Old Company desiring to participate in the Plan must deposit their certificates of stock, in form transferable by delivery and duly stamped for transfer, with the Depositary on or before October 25, 1916, receiving therefor certificates of deposit in form to be approved by the Managers, and the holders of such certificates of deposit shall be irrevocably bound and concluded by the Plan and Agreement of Reorganization.

Depositors of stock (whether first preferred, second preferred or common) of the Old Company must pay to the Depositary for the account of the Managers, when and as called for by the Managers as hereinbefore provided, $27 in respect of each share of stock deposited by them.

Holders of unsecured claims against the Old Company desiring to participate in the Plan must deposit the evidence of their claims, if in writing or, if not in writing, a written statement of the nature of their claims, with all proper instruments of transfer and assignment required to vest title thereto in the Managers, with the Depositary on or before October 25, 1916, receiving therefor certificates of deposit in form to be approved by the Managers, and the holders of such certificates of deposit shall be irrevocably bound and concluded by the Plan and Agreement of Reorganization.

XV.

EXTENSIONS OF TIME. DEFINITION OF "DEPOSITOR."

The Managers may, in their absolute discretion, in general or particular instances, enlarge or extend the time for making any deposit or payment required by the Plan and may impose conditions in respect of any such deposit or payment.

The term "depositor," as used herein and in the Agreement hereto annexed, means and includes not only the original depositor (whether of First Consolidated 4% Bonds, of stock or of unsecured claims), but any transferee of any cer-

tificate of deposit. Upon any transfer of a certificate of deposit, all the rights and liabilities under the Plan of the transferor (including the right of a depositor of stock to subscribe for and receive prior lien stock of the New Company and his liability for any unpaid part of his subscription for prior lien stock, if he has already subscribed) shall pass to the transferee, and such transferee and subsequent holders of such certificate of deposit shall for all purposes be substituted in place of the prior holders of such certificate.

XVI.

MODIFICATION OR ABANDONMENT OF THE PLAN.

The Managers may abandon the provisions of the Plan with respect to the First Consolidated 4% Bonds of the Old Company if, in their judgment, there shall not have been deposited under the Plan enough of such bonds to justify the carrying out of such provisions. In case of the abandonment of such provisions, notice thereof shall be given by publication to depositors of such bonds, whereupon such depositors shall be entitled, upon surrender of their certificates of deposit, to receive such bonds in the amounts specified in such certificates severally. Neither the failure of the holders of all or any of the First Consolidated 4% Bonds of the Old Company to assent to or become parties to the Plan nor the abandonment as aforesaid of the provisions of the Plan with respect to such bonds shall affect the consummation thereof, but the Plan may nevertheless be carried out by the Managers in respect of the other securities of the Old Company embraced therein with the same effect as if said First Consolidated 4% Bonds had not been mentioned in the Plan.

The Managers may in their discretion at any time before the Plan has been consummated, modify the Plan pursuant to the provisions of the annexed agreement, or wholly abandon the Plan. In case the Plan shall be wholly abandoned, the deposited securities or the avails thereof under the control of the Managers shall be delivered to the depositors in amounts representing their respective interests, upon surrender of their several certificates of deposit properly endorsed. In such case, all the moneys paid by any depositor pursuant to the provisions of the Plan shall be returned, but without interest, to the depositor entitled thereto.

XVII.

STATEMENTS CONTAINED IN THE PLAN.

The statements contained in the Plan have been compiled from sources believed to be reliable and accurate. None of them is to be construed as a representation or as an inducement to any action or omission to act on the part of anyone. No error or misstatement of any kind contained in the Plan shall constitute ground for the withdrawal of any depositor nor for any complaint with respect to the same nor with respect to any consequences arising from having become a party thereto.

XVIII.

AGREEMENT OF REORGANIZATION.

In order to enable the Plan to be carried out and to give effect to the same, the annexed Agreement has been prepared. Wherever the word "Plan" is hereinbefore used it shall be deemed to include said Agreement and the provisions thereof, and every depositor under the Plan by such deposit thereby becomes a party to said Agreement, the provisions whereof shall govern in case of conflict between the Plan and the Agreement.

Dated September 20, 1916.

Agreement

AGREEMENT dated this 20th day of September, 1916, between KUHN, LOEB & Co. and BLAIR & Co. (herein called the "Managers"), parties of the first part; the holders of the Three-Year Five Per Cent. Gold Notes (herein called the "Three-Year Notes") due August 1, 1908, of The Wheeling and Lake Erie Railroad Company (herein called the "Old Company"), parties of the second part; and such holders of the First Consolidated Mortgage Four Per Cent. Gold Bonds (herein called the "First Consolidated 4% Bonds") due September 1, 1949, of the Old Company, such holders of unsecured claims against the Old Company and such holders of first preferred, second preferred and common stock of the Old Company as shall become parties hereto in the manner in the Plan and herein provided (sometimes herein referred to collectively as "Depositors"), parties of the third part;

WITNESSETH:

The parties hereto for and in consideration of the covenants, conditions and promises herein contained and for the purpose of carrying out the foregoing Plan of Reorganization or some altered or modified plan adopted in the manner hereinafter provided, have mutually agreed and hereby do severally agree, each of the holders of Three-Year Notes and each of the Depositors agreeing with the Managers and with every other holder of Three-Year Notes and with every other Depositor, but agreeing only for himself and not for any others, as follows:

First.—The holders of the Three-Year Notes and the Depositors jointly and severally hereby assent to and accept all the provisions of the foregoing Plan, and the same is hereby approved and adopted and shall be taken as and deemed to be a part of this Agreement with the same effect as though every provision thereof had been embodied herein, and the said Plan and this Agreement shall be read as parts of one and the same instrument; but no estimate, statement, explanation or suggestion or anything else contained in the Plan or Agreement or in the Introductory Statement prefixed thereto or in any circular or advertisement issued or which may hereafter be issued by or on behalf of the Managers is intended or is to be taken as a representation or as a condition of any deposit, subscription, assent or payment under the Plan and Agreement, and no defect or error therein shall release any deposit under the Plan and Agreement or affect or release any assent thereto or payment made or anything done thereunder or in connection therewith, except by written consent of the Managers.

Second.—All the holders of Three-Year Notes have deposited their Notes with the Managers hereunder. Holders of First Consolidated 4% Bonds, holders of unsecured claims against the Old Company and holders of first preferred, second preferred and common stock of the Old Company shall become parties to the Plan and Agreement in the manner and upon the terms stated and upon compliance with the conditions

prescribed in the Plan. The Managers, however, in their absolute discretion and upon such terms and conditions as they shall prescribe, may permit any holder of First Consolidated 4% Bonds or of stock of the Old Company or of unsecured claims against the Old Company to become a party to the Plan and Agreement without the actual deposit of such bonds, stocks or claims, and the holders of bonds, unsecured claims or stock so becoming parties are intended to be embraced within the term "Depositors" wherever used in this Agreement. The Managers may abandon the provisions of the Plan with respect to the First Consolidated 4% Bonds of the Old Company if, in their judgment, there shall not have been deposited under the Plan enough of such bonds to justify the carrying out of such provisions. In case of the abandonment of such provisions, notice thereof shall be given by publication to depositors of such bonds, whereupon such depositors shall be entitled, upon surrender of their certificates of deposit, to receive such bonds in the amounts specified in such certificates severally. Neither the failure of the holders of all or any of the First Consolidated 4% Bonds to assent to and become parties to the Plan and Agreement nor the abandonment as aforesaid of the provisions of the Plan with respect to such bonds shall prevent the consummation thereof with respect to the other securities embraced therein, but the Managers may in either such case carry out the Plan and Agreement with respect to the other securities embraced therein with the same effect as if the First Consolidated 4% Bonds had not been mentioned therein.

The holders of Three-Year Notes and the Depositors and each of them agree from time to time on demand of the Managers to execute any and all transfers, assignments or writings required for vesting in the Managers complete ownership of their notes and of the bonds, claims or stock represented by their certificates of deposit issued hereunder as the Managers may determine. The Depositors of stock severally agree at any and all times when requested by the Managers to deliver to the Depositary proxies or powers of attorney authorizing the Managers or such person or persons as shall be designated by them and their substitute or substitutes to represent and vote their shares of stock at all meetings of the stockholders of the Old Company upon any and all questions that may come before such meetings. Every such power of attorney and proxy shall be in a form approved by the Managers and shall be irrevocable.

Depositors of First Consolidated 4% Bonds, unsecured claims and stock shall be entitled to receive certificates of deposit hereunder in form to be prescribed or approved by the Managers specifying respectively the bonds, stocks or unsecured claims deposited, and the holders of such certificates of deposit shall be entitled (subject to any provisions or conditions contained in such certificates) to the rights and benefits and only to the rights and benefits specified in the Plan and Agreement as accruing to the respective classes of Depositors or granted by the Managers pursuant to the powers conferred upon them; and thereafter the holder of any such certificate or of any certificate issued in lieu thereof or in exchange therefor shall be subject to the Plan and Agreement and shall be entitled

to have and to exercise the rights, and be subject to the liabilities, of the original holder of such certificate of deposit.

The certificates of deposit issued hereunder and the interests represented thereby and all rights by virtue thereof shall be transferable, but only subject to the terms and conditions of the Plan and Agreement and in such manner as the Managers shall approve; and upon such transfer all rights and liabilities of the Depositor in respect of the deposited bonds, stocks or unsecured claims represented by such certificate, including his rights in any payments made in respect thereof and receipted for in or by endorsement on such certificates by the Depositary and his right, if any, to subscribe for prior lien stock as provided in the Plan and as well his liability for any unpaid balance due on his subscription for such prior lien stock, if he has already subscribed, and all his other rights and benefits, liabilities and obligations under such certificate and under the Plan shall pass to the transferee and the transferees and holders of such certificate of deposit shall for all purposes be substituted in place of the former holders, subject to the Plan and this Agreement. All such transferees, as well as the original holders of certificates of deposit issued hereunder, shall be embraced within the term "Depositors" wherever used herein. Any and every certificate of deposit and any and every temporary or other certificate or receipt issued by the Managers or the Depositary may be treated by the Managers and the Depositary as a negotiable instrument and the bearer or, if registered, the registered holder for the time being, may be deemed to be the absolute owner thereof and of all rights of the original Depositor or of any holder, and neither the Managers nor the Depositary shall be affected by any notice to the contrary. By accepting or holding any certificate of deposit issued hereunder every recipient or holder thereof shall thereby become a party to the Plan and Agreement with the same force and effect as though an actual subscriber thereto, and shall thereby authorize the Managers to affix his signature hereto or to any other paper in connection with the reorganization that they may deem it advisable so to sign. The term "Depositor" whenever used herein is intended and shall be construed to include not only persons acting in their own right, but also trustees, guardians, committees, agents or persons acting in a representative or fiduciary capacity and those represented by or claiming under them, and partnerships, associations, joint stock companies and corporations. No rights hereunder shall accrue in respect of any bonds or stock of the Old Company or in respect of any unsecured claims against the Old Company hereinbefore mentioned unless or until the same shall have been subjected to the control of the Managers and to the operation of the Plan and Agreement as herein provided.

In their discretion the Managers may fix or limit any period or periods within which deposits may be made as herein provided and, subject to the provisions in that behalf stated in the Plan, the times within which any payment required by the Plan must be made by holders of certificates of deposit and, in their discretion, either generally or in special instances, and on such terms and conditions as they may see fit, they may extend or renew any period or periods so fixed or limited. Holders of bonds, stock or unsecured claims who do not become parties hereto in the manner hereinabove stated within the periods respectively fixed or limited therefor will not be entitled to deposit their bonds,

stock or claims or to become parties to the Plan and Agreement or to share in the benefits hereof, and shall acquire no rights hereunder, except upon obtaining the express consent of the Managers, who hereby expressly reserve the right, which is granted to them by all the parties hereto, in their absolute discretion and upon such terms and conditions as they may see fit, to withhold or to give such consent or to admit as parties and to participation in the Plan and Agreement and as Depositors hereunder, holders of the above-mentioned bonds, stocks or claims.

Third.—The cash payable by holders of certificates of deposit for stock as provided in the Plan must be paid to the Depositary for account of the Managers and shall be receipted for by the Depositary in or by endorsement on the certificates of deposit for the stock in respect whereof such cash is paid upon presentation of such certificates for that purpose. Moneys payable under the Plan, other than sums payable by holders of certificates of deposit for stock of the Old Company upon subscriptions for prior lien stock of the New Company, may be used at any time by the Managers or with their approval for any of the purposes of the Plan and Agreement, including the payment, compromise or acquisition of claims which under the Plan it is contemplated may be paid, compromised or acquired.

All Depositors hereunder of stock (whether first preferred, second preferred or common) hereby severally agree that prompt payment of the sums by the Plan required to be paid by them on account of the cash requirements of the Plan is an essential condition of the acquisition by them severally of the new securities provided for in the Plan or any other right or benefit under the Plan and Agreement, and that any such Depositor, who shall fail to make prompt payment of any sums required to be paid by him on account of such cash requirements within any period fixed or limited by the Plan or by the Managers for such payment, forthwith and without further or other notice or action shall cease to have any rights under the Plan in respect of the stock in respect whereof such payments shall be required or under the certificate or certificates of deposit therefor and shall cease to be entitled to any of the benefits hereunder; and that no such Depositor shall be entitled to the return of such stock or the repayment of any cash theretofore paid by him or to have any further interest or rights in respect thereof; and that such cash and such stock shall pass to and the ownership thereof shall vest in the Syndicate formed by the Managers as stated in the Plan.

Depositors of stock of the Old Company upon payment in full, when and as called for by the Managers, of the sums payable by them on account of the cash requirements of the Plan, shall have the right, upon the terms and conditions stated in the Plan, to subscribe for and purchase prior lien stock of the New Company in the amounts in the Plan stated. All Depositors of stock who shall subscribe for prior lien stock of the New Company agree that prompt payment of the sums payable by them respectively upon their subscriptions for such prior lien stock, when and as called for by the Managers, is an essential condition of their acquisition of such prior lien stock, and that any such Depositor who shall fail to make prompt payment of the sums payable by him on account of his subscription as provided in the Plan, when and as called for by the Managers

in the manner provided in the Plan, shall forthwith and without further notice or action, forfeit all sums theretofore paid by him on account of such subscription, and all his rights to receive such prior lien stock, but shall not, solely by reason of such default, forfeit any other right or benefit under the Plan and Agreement.

The Managers may, however, in their discretion, at any time accept payment of overdue instalments from any Depositor. They may waive and remit any penalty prescribed either in the Plan and Agreement or in pursuance thereof. They may also, and whenever and upon such terms as they shall deem proper, accept from any Depositor the surrender of any certificate of deposit issued hereunder and upon receipt thereof and in exchange therefor they may surrender and deliver deposited bonds or unsecured claims or stock of the class and to the amount stated in such certificate of deposit. In their discretion, for the purpose of carrying out the Plan and Agreement, the Managers may take such action as they may see fit in connection with any subsidiary or controlled company of the Old Company.

In respect of the Three-Year Notes and of the deposited First Consolidated 4% Bonds, stock or unsecured claims, the holders of such Notes and of certificates of deposit for such bonds, stock or unsecured claims, upon compliance with all the terms, provisions and conditions of the Plan and Agreement, but not otherwise, shall be entitled, upon the completion of the reorganization and upon surrender of their certificates of deposit, to receive, when issued, Prior Lien Stock, Refunding Mortgage Gold Bonds, Preferred Stock and Common Stock of the New Company upon the terms and to the extent specified in the Plan.

Fourth.—All the holders of Three-Year Notes and all the Depositors hereby irrevocably request the Managers to carry out the Plan and Agreement and agree that the Managers shall be, and they hereby are, vested with all rights, powers and authority necessary or proper to enable them to carry out the Plan and Agreement in its entirety or in part to such extent and in such manner and with such additions, exceptions and modifications as the Managers shall deem to be expedient. All the holders of Three-Year Notes and all the Depositors hereby irrevocably authorize the Managers in their behalf to assign all the notes and all the bonds, stock or unsecured claims deposited hereunder to any person or corporation so as to vest such person or corporation with full title thereto. Without limiting the foregoing it is hereby declared that the Managers shall be fully authorized to vote the deposited stock at any meeting for anything authorized by or necessary or helpful in carrying out the Plan and Agreement, and to consent as holders of said stock to any corporate action, and to sign any written consent required or permitted by law to be signed and to file the same; to institute or become parties to any legal proceedings; to compromise any litigation now or at any time hereafter existing or threatened, in whole or in part, with plenary power to enter into any agreement tending towards or deemed by them in their discretion likely to promote the consummation of the Plan and Agreement; at any time or times and at such places as they shall deem proper, to purchase or to pay, compromise or settle any indebtedness or obligations of or claims against the Old Company or any subsidiary company or any

claims or demands or securities against any property deemed by the Managers important or advisable for the New Company to acquire or any claims, demands or securities by reason whereof or by reason of the possession whereof such property is or may be encumbered or the title thereto affected, or any Receiver's Certificates or obligations issued or liabilities incurred or which may be issued or incurred by the Receiver, or any claims or demands that the Managers in their discretion may deem it for the interest of the reorganization to purchase, pay, compromise or settle; for any of the purposes of the Plan and Agreement to borrow money and to charge or to pledge any of the Three-Year Notes or any of the deposited stock or unsecured claims, or any property purchased or new securities to be issued, for the repayment of any money borrowed, with interest; to execute all agreements or bonds of indemnity and other bonds and therewith to charge the Three-Year Notes or any stock or unsecured claims deposited hereunder or any part thereof; to do whatever in the judgment of the Managers may be expedient to promote or procure the sale as an entirety of any lands, railroads, properties or franchises of the Old Company or of any of its subsidiary or controlled companies, wherever situated; to adjourn any sale of any property or franchises or any portion or lot thereof; to bid or to cause anyone else to bid, or to refrain from bidding, at any sale, whether public or private, either in separate lots or as a whole, for any property or franchises or any part thereof, and at, before or after any sale to arrange and agree for the resale of any portion of the property they may decide to sell rather than to retain; to hold any property or franchises purchased by them either in their names or in the name of any person or corporation approved by them, and to apply the Three-Year Notes and any deposited stock or unsecured claims in satisfaction or partial satisfaction of any bid, whether made by themselves or any other person or corporation approved by them, or towards obtaining funds for the satisfaction thereof; and the term "property and franchises" shall include any and all railroads and other transportation lines, branches, leaseholds, rights in lands, stock and other interests in corporations in which the Old Company has any interest of any kind whatever, direct or indirect. The amount to be bid or paid or caused to be bid or paid by the Managers for any property or franchises shall be absolutely discretionary with them, and in case of a sale to others of any property or franchises the Managers, if they choose, may receive, out of the proceeds of such sale or otherwise, any payment in any form accruing on any Three-Year Notes, stock or unsecured claims subject hereto. Anything which anywhere in the Plan and Agreement it is provided that the Managers may do or allow to be done, they may do or allow to be done by or through such agents or agencies as they may determine, or by or through others with their approval or consent or acquiescence, or they may contract with any person or corporation that it shall be done or permitted to be done. The Managers may assign and deliver all or any of the Three-Year Notes or any or all of the deposited bonds, stock and unsecured claims to any person or corporation and may enter into such contract or contracts with such person or corporation or with anyone else as they shall deem proper for the purposes of the Plan and this Agreement. The person or corporation to whom the deposited stock may be assigned is fully authorized to call and attend any meetings of stockholders however convened, and to vote the deposited stock

at any such meeting for anything authorized by or necessary or helpful to the carrying out of the Plan and Agreement, and to do everything in respect of any deposited stock as fully and to the same extent as the owner thereof.

Fifth.—The Managers may organize or procure to be organized one or more new companies, or they may adopt or use any company or companies, whether now existing or not, and they may cause to be made sales, leases, consolidations, mergers or other arrangements by or between any such companies or any companies mentioned in the Plan, or other companies; they may make or cause to be made conveyances or transfers of any properties or securities acquired by them or with their approval; they may cause the ownership of all or any property of the New Company to be either direct ownership or ownership through the bonds or through the stock, or both, of any other company, and may cause the mortgage securing the Refunding Mortgage Gold Bonds of the New Company to be either a direct lien upon any particular property or a lien upon the bonds or stock, or both, of any company, and they may take or allow to be taken such other proceedings as they may deem proper for the purpose of the creation of the new securities provided for in the Plan and Agreement and for carrying out all or any of the provisions thereof. The Managers are also authorized to receive and to dispose of or to allow to be received and disposed of by any other person or corporation the new securities to be created, and they may vote or allow any person or corporation to vote upon all the stock of the New Company until the same shall be distributed as contemplated in the Plan to the persons or corporations entitled to receive the same.

The Managers as bankers have formed and are the Managers of the Syndicate to underwrite the cash requirements of the Plan as stated therein. The Syndicate, upon making in full the payments required by the Plan to be made in respect of any stock of the Old Company which shall not be deposited under the Plan or by any depositors of such stock who shall fail to make the same, shall receive the securities to which the holders of such undeposited stock or such defaulting stockholders would have been entitled upon becoming parties to the Plan and making such payments in full, and shall in addition receive any sums which such defaulting stockholders shall have paid on account of the cash requirements of the Plan and which shall have been forfeited by reason of their default in the payment in full of the sums required to be paid by them. The Syndicate shall be paid compensation to be fixed and agreed upon by the Managers. The Managers are members of such Syndicate.

Sixth.—The Managers may construe the Plan and this Agreement, which the parties hereto agree are intended to be, and shall be, in all respects liberally construed in order to enable the Managers to carry the same into effect, and their construction thereof or action thereunder, in good faith, shall be final and conclusive; they may supply any defect or omission or reconcile any inconsistency in such manner and to such extent as shall be deemed by them necessary or expedient to carry out the same properly and effectively, and they shall be the sole judges of such necessity or expediency. They shall be the sole and final judges as to when and whether the assent of enough stockholders or holders of First Consolidated 4% Bonds or of unsecured claims shall have been obtained to warrant them in attempting to carry the Plan or any part thereof into effect, and they

shall have power, whenever they deem proper, to alter, modify, depart from or abandon the Plan, or any part thereof; they may at any time or times after any such partial abandonment, or after any modification, restore to the Plan any abandoned part or parts thereof, or discard any such modification and seek to carry the same into effect as fully as if such part or parts had not been abandoned or such modifications made; they may also attempt to carry the Plan into effect rather than abandon or modify the same, even though it be manifest that as carried out the Plan must depart from the original Plan or some part thereof; any change or modification made by the Managers shall thereupon become and be part of the Plan and Agreement; but in case of any intentional change or modification of the Plan not herein specifically authorized which, in the judgment of the Managers, shall materially affect any of the several classes of Depositors, a statement of such proposed change or modification shall be filed with the Depositary and notice of the fact of such filing shall be given as hereafter provided in Article *Fourteenth;* and within three weeks after the first publication of such notice all holders of outstanding certificates of deposit for notes, bonds or any particular class of stock or for unsecured claims, as the case may be, affected thereby may surrender their respective certificates of deposit therefor to the Depositary and may withdraw their bonds or stock of such particular class or unsecured claims, or the proceeds thereof, or the substitutes therefor, then under the control of the Managers, to the amount indicated in such certificates; provided, however, in every case of such surrender the holders of certificates of deposit for Three-Year Notes or for stock severally shall make payment of their shares of the disbursements and expenses of the Reorganization Managers as apportioned by such Managers. Every such holder of a certificate of deposit by such surrender and withdrawal shall thereupon without any further act be released from the Plan and Agreement and shall cease to have any rights thereunder, and the exercise of such right of withdrawal shall release and discharge the Managers and the Depositary from all liability of every character to every such withdrawing Depositor, except in so far as provision is hereinafter made with regard to cases where money has been paid in under the Plan by Depositors. Every Depositor not so surrendering and withdrawing within three weeks after the first publication of said notice shall be deemed to have assented to the proposed change or modification and, whether or not otherwise objecting, shall be bound thereby as fully and effectively as if he had actually assented thereto. Any changes or modifications made by the Managers as herein provided shall be part of the Plan, and all provisions and references concerning the Plan shall apply to the Plan as so changed or modified. In every such case of surrender and withdrawal, any interest, or other moneys actually collected by the Managers on deposited bonds, stock or unsecured claims so withdrawn herefrom will be accounted for by the Managers to the holders of certificates of deposit for such bonds, stock or unsecured claims. In every case of withdrawal herefrom of stock or unsecured claims pursuant to this Article, the Managers shall apportion to the deposited stock and unsecured claims the share of their compensation, disbursements and expenses in the opinion of the Managers fairly chargeable to the stock and unsecured claims, and any such apportionment made by the Managers shall be binding upon all Depositors and shall be a charge upon the deposited stock

and unsecured claims and the proceeds thereof. In case the Managers shall finally abandon the entire Plan, the bonds, stock and unsecured claims deposited hereunder, or the proceeds thereof, or any securities, claims or other property representative thereof, then under the control of the Managers, shall be delivered to the several holders of certificates of deposit respectively in amounts representing their respective interests, upon surrender of their respective certificates of deposit therefor. In any such case of withdrawal or release herefrom any moneys paid by the Depositors of stock pursuant to the provisions of the Plan, or any notes, bonds, coupons, receiver's certificates or other obligations, claims or property acquired therewith, or the proceeds thereof, remaining after deducting the share of the compensation of and of the disbursements and expenses made and incurred by the Managers and apportioned to the Depositors of stock who shall have so paid, shall be distributed or adjusted equitably among the respective holders of certificates of deposit representing the stock in respect whereof such payment shall have been made; but the Managers shall not be liable for the loss of any such money by them disbursed for the purposes of the Plan and of this Agreement, or for the depreciation in value of any property or security by them acquired or received; and the Depositors of stock who shall have made payments pursuant to the Plan shall have no claim for the repayment of any such moneys, except to the extent of their shares (as apportioned by the Managers) of such moneys, or their proceeds, remaining in the hands of the Managers or under their control, after payment of such disbursements and expenses.

Seventh.—The Managers may proceed under the Plan and Agreement, or any part thereof, with or without judicial sale, and in case of judicial sale they may exercise any power either before or after sale. In every case all the provisions of the Plan and Agreement shall apply equally to and in respect of any physical properties embraced in the reorganization, and to and in respect of any securities representing any such property, it being intended that for all purposes hereunder any such property, and any security representing such property, may be treated or accepted by the Managers as substantially identical. In the case of any claim, lien or obligation (not herein fully provided for) affecting the Old Company or any subsidiary or controlled company or any property or franchises thereof, the Managers may from time to time purchase or acquire the same or cause the same to be purchased or acquired, or make such compromise in respect thereto, or such provision therefor, as they may deem suitable, using therefor any cash received (otherwise than on subscriptions for prior lien stock) under the Plan or any other resources, or any securities not expressly required for settlement with Depositors. Notwithstanding no specific provision is made in the Plan for the Equipment Sinking Fund Five Per Cent. Gold Bonds, the Managers are authorized and empowered in their absolute discretion to deal with said bonds and with the holders thereof and to settle, compromise, adjust or acquire the claims of such holders upon such terms as the Managers may deem advisable, either by the payment of cash or, with or without any cash payment, by the issue of new equipment obligations secured by reservation of title to the equipment title whereto is reserved as security for

said bonds, or by the issue of other obligations, or by the surrender of such equipment and, for such purpose, to use any of the cash provided for the cash requirements of the Plan; and the total amount of new securities to be created as set forth in the Plan may, for the purpose of dealing with such Equipment Sinking Fund Five Per Cent. Gold Bonds and settling, compromising, adjusting or acquiring the claims of the holders thereof, be increased by an amount not exceeding the face amount of such Equipment Sinking Fund Five Per Cent. Gold Bonds the claims of the holders whereof shall be so settled, compromised or acquired.

Eighth.—Any action contemplated in the Plan and Agreement may be performed before or after reorganization, and any such action may be taken by the Managers or by anyone approved by them at any time when they shall deem the reorganization advanced sufficiently to justify such course; and, as they may deem necessary, the Managers may defer, or permit to be deferred, the performance of any provision of the Plan and Agreement, or may commit such performance to the New Company, and may cause the New Company to pay any indebtedness authorized or incurred by the Managers or otherwise in furtherance of the Plan, and to assume any obligation which in their judgment may be necessary or proper to carry out the Plan and Agreement. The Managers may, in their discretion, set apart and hold in trust or permit to be set apart and held in trust, or may place in trust, or permit to be placed in trust, with any trust company, any part of the new securities to be issued, and any cash which may be received from sales of new securities or otherwise, as they may deem suitable for the purpose of securing the application of the same to any of the purposes of the Plan and Agreement.

From time to time, for the purpose of carrying the Plan and Agreement into effect, or of obtaining assents thereto, the Managers, either generally or in special instances, may make or ratify, or permit to be made or ratified, contracts with any person or corporation or committee representing securities of any class in respect of any matter connected with the Plan and Agreement, and in their discretion, either generally or in special instances, and upon such general or special terms or conditions as they may deem proper, they may arrange to procure the deposit of any First Consolidated 4% Bonds, stock or unsecured claims; and by loan or guaranty, or by the sale of new securities to be created, or otherwise, on such terms, conditions and rates of interest as they may deem proper, they may obtain or permit to be obtained any moneys required to carry out the Plan and Agreement, including such sums as the Managers may deem it expedient to provide for the uses of the New Company; and for the performance of any contract, the Managers may charge or permit to be charged the Three-Year Notes and the deposited stock or unsecured claims and the new securities to be issued, and also may pledge the same or permit the same to be pledged for the payment of any moneys borrowed, with interest, and for the performance of any other obligations incurred under the powers herein conferred. The Managers may employ counsel, agents and all necessary assistants, and may incur and discharge any and all expenses by them deemed reasonable for the purposes of this Plan, including the expenses and compensation of the Managers and the Depositary and all expenses in connection with the preparation of the Plan and

Agreement and the issue of certificates, legal expenses, expenses for advertising, printing and all other expenses in any manner connected with the Plan and Agreement or which they may deem it expedient to incur in undertaking to promote any of the purposes thereof. They shall be the sole judges of the propriety or expediency of any and all compensation and expenses and of the amount thereof.

The Managers may prescribe or approve the form and terms of all charters, rules, regulations and by-laws of any corporation or corporations utilized in reorganization, and of all bonds, certificates of stock and other securities at any time to be issued, and of the mortgage and other instruments at any time to be issued or executed. They may create and provide for all necessary trusts and may nominate and appoint trustees thereunder. They may select and cause to be selected or otherwise designate or constitute the members of the board of directors of the New Company who are to serve in the first instance, and they may cause said board of directors to be classified so that the terms of office of the different classes of directors will expire in successive years.

The Managers may dispose of, or consent to the disposition of, any new securities not required for delivery to Depositors; and they may use the same or allow the same, or the proceeds thereof, to be used for the purpose of carrying out the reorganization or otherwise for the benefit of the New Company in such manner as they may deem expedient and advisable. At or after the time of the creation of the new securities the Managers may take such action as they may deem necessary to guard against the issue of securities in any manner or to any extent inconsistent with the purposes of the Plan.

At any time the Managers may make contracts binding upon the New Company for the acquisition of property for use in the operation of the New Company, or make any other contracts which they may deem advisable in reference to the property of the New Company, or any of the companies mentioned and referred to herein, and generally they may do or cause to be done any and all things which in their opinion will aid in the preservation, improvement or development of any property in which the Old Company has an interest, direct or indirect.

Ninth.—The Managers shall have the sole control, direction and management of the Plan and Agreement. The firms of Kuhn, Loeb & Co. and Blair & Co. shall be the Reorganization Managers (herein called the Managers). Each of said firms shall act as a co-partnership, and in case of any change in the membership of either of said firms, their respective successor firms, as from time to time constituted, shall continue as Managers, with all the powers, rights and title vested in the Managers hereunder. As compensation for their services as Managers hereunder each firm of Managers shall be paid the sum of $150,000 and as compensation for their services as managers of the Syndicate mentioned in the Plan each firm of Managers shall be paid $100,000.

The Managers undertake in good faith to execute the Plan and Agreement; but they do not assume, nor does the Depositary assume, any personal responsibility for the success of the Plan or Agreement or any part of either, or for the result of any steps taken or acts done thereunder or for the purposes thereof.

The Managers shall not, nor shall any of them, nor shall the Depositary, be personally liable for any act or omission of any agent or employee selected by them or any of them, or for any error of judgment or mistake of fact or law, or in any case except for his, its or their own wilful misconduct; and neither the Managers nor any of them nor the Depositary shall be personally liable for the acts or defaults of the others. The Managers may act by any agent and may delegate any authority as well as any discretion to any such agent, and such agent may be allowed a reasonable compensation for his services. The Managers and any partner of either firm constituting the Managers, or the Depositary, or any officer or director thereof, or anyone connected with the Managers, or with the Depositary, the trustees of any mortgage and any officer or director or person connected with the Old Company or the New Company, may be or become pecuniarily interested, without accountability in respect thereof, in any contracts, property or matters with which the Plan or Agreement or the New Company or the Old Company is concerned, including participation in or under any syndicate, whether or not mentioned in the Plan; and any such person or corporation may also become a Depositor under the Plan, and in such event shall have the same rights, benefits and obligations hereunder and in respect of securities of the New Company to be received, and of all payments to be made hereunder, as other Depositors, and may buy and sell certificates of deposit or undeposited securities in the same manner and with the same rights as any other Depositor.

The acceptance of new securities by any Depositor shall estop such Depositor from questioning the conformity of such securities in any particular to any provisions of the Plan, or the propriety or expediency of any act done or arrangement made in carrying the Plan into effect.

The Managers may appoint a successor to Central Trust Company of New York as Depositary. Any direction given by the Managers shall be full and sufficient authority for any action of any Depositary or other custodian or agent.

Tenth.—The accounts of the Managers shall be filed with the board of directors of the New Company within one year after the reorganization shall have been completed, unless a longer time shall have been granted by the board. Such accounts, unless disapproved by such board of directors within sixty days after such filing, shall be final, binding and conclusive upon all parties having any interest therein; and thereupon the Managers shall be discharged.

Eleventh.—The enumeration of specific powers hereby conferred shall not be construed to limit or restrict the general powers herein conferred or intended so to be, and it is hereby distinctly declared that it is intended to confer on the Managers in respect of the Three-Year Notes and of all the bonds, stock and unsecured claims deposited or to be deposited hereunder and in all other respects, any and all powers which the Managers may deem necessary or expedient in or towards carrying out or promoting the purposes of the Plan and Agreement in any respect as now existing, or as the same may be modified or amended, even though any such power be apparently of a character not now contemplated; and the Managers may exercise any and every such power as fully and effectually as if the same

were herein distinctly specified, and as often as, for any cause or reason, they may deem expedient. The methods and means to be adopted for or towards carrying out the Plan and Agreement shall be entirely discretionary with the Managers.

Twelfth.—All the Three-Year Notes and all the bonds, stock and unsecured claims deposited under or subject to the Plan and Agreement, and all securities and claims purchased or otherwise acquired thereunder, shall remain in full force and effect for all purposes, and shall not be deemed to have been merged, satisfied, released or discharged by any delivery of new securities; and no legal right or lien shall be deemed released or waived, but said notes, bonds, stock and claims and any judgment or judgments upon any thereof, and all liens and equities shall remain unimpaired and may be enforced by the Managers or by anyone to whom the same, with the assent of the Managers, may have been assigned, or by the New Company, until paid or satisfied in full or expressly released, as they may be, by the New Company. Neither the Managers nor any Depositors who are creditors of the Old Company shall by executing this agreement or by becoming parties hereto, release, surrender, waive or merge in favor of any stockholders or other creditors of the Old Company any lien, right or claim, and all such liens, rights or claims shall vest unimpaired in the Managers and in the New Company and its assigns, severally and respectively; and any purchase or purchases made in pursuance of, or for the purpose of carrying out, the Plan under any decree for the enforcement of any such lien, right or claim, shall vest the property purchased in the purchaser or in the New Company free from all interest or claim on the part of any such stockholders, creditors or other parties. No right is conferred or created hereby, nor is any trust, liability or obligation (except the agreements herein contained in favor of the holders of Three-Year Notes and of certificates of deposit for bonds, stock or unsecured claims) created by the Plan and Agreement, or assumed hereunder, or by or for any New Company in favor of any creditor of or any holder of any claim whatsoever against the Old Company or in favor of any company now existing or to be formed hereafter (whether such claim be based on any bonds, stocks, securities, leases, guaranties, notes, debts or otherwise) with respect to the Three-Year Notes or to any bonds, stock or unsecured claims deposited or held under this Agreement, or any moneys paid to or received by the Managers or the Depositary, or with respect to any property acquired by purchase at any judicial sale or otherwise, or with respect to any new securities to be issued hereunder, or with respect to any other matter or thing; and this Agreement shall not be construed to create any trust or obligation to or in favor of any person or corporation other than the parties hereto.

Thirteenth.—All moneys paid by Depositors hereunder shall be held by the Depositary subject to the order of the Managers. The Managers shall apply the same, and any other moneys which may come within their control, for the purposes of the Plan and Agreement as from time to time may be determined by them; and their determination as to the propriety and purpose of any such application shall be final and nothing in the

Plan shall be understood as limiting or requiring the application of specific moneys to specific purposes. Any obligation in the nature of floating debt or otherwise against any company or property embraced in the Plan, either as proposed or carried out, or any securities held as collateral to any such obligation, may be acquired or extinguished or held by the Managers or anyone approved by them, at such time, in such manner and upon such terms as the Managers may deem proper for the purposes of reorganization; and nothing in the Plan and Agreement contained is intended to constitute or create, or shall constitute or create, any liability or trust in favor or in respect of any such obligation.

Fourteenth.—All calls required to be made hereunder for payments or for the surrender or presentation of certificates of deposit issued hereunder, and all notices fixing or limiting any period for the deposits or for such payments, and all other calls and notices hereunder, shall be published in The New York Times and in The Sun, newspapers regularly published and issued in New York City, twice a week for two successive weeks, in each case on any day of the week. Any call or notice whatsoever, when so published by the Managers, shall be taken and considered as though personally served upon all the parties hereto and upon all parties bound hereby as of the respective dates of the first publication thereof, and such publication shall be the only notice required to be given under any provision of this Plan and Agreement.

Fifteenth.—An original of this Agreement signed by the Managers with the Plan annexed thereto shall be lodged with the Depositary, Central Trust Company of New York, at its office at 54 Wall Street, New York City. The Plan and this Agreement shall bind and benefit the Managers, the holders of the Three-Year Notes and the Depositors hereunder, and their and each of their survivors, heirs, executors, administrators, successors and assigns.

In Witness Whereof, the Managers have affixed their signatures hereto as of the day and year first above written, the holders of the Three-Year Notes have deposited their notes with the Managers hereunder as of said date and the Depositors have become parties hereto as of various dates by depositing their bonds, stock and unsecured claims or accepting certificates of deposit therefor issued hereunder.

KUHN, LOEB & CO.,
BLAIR & CO.,
Reorganization Managers.

GAYLAMOUNT
PAMPHLET BINDER
Manufactured by
GAYLORD BROS. Inc.
Syracuse, N.Y.
Stockton, Calif.

YF 02275